IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4442 of 2006

Date of Decision: 30.11.2006

N.P.Ohri ...Petitioner

Vs.

Kanta Rani & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Amit Rawal, Advocate,
for the petitioner.

Mr.A.S.Gill, Advocate,
for respondent No.1.

Mr.Sudhir Pruthi, Advocate,
for respondents No. 7 and 8.

Vinod K.Sharma, J. (Oral)

Respondents No.2 to 6 were ex parte before the learned Trial Court and therefore, the learned counsel for the petitioner prays that their service may be dispensed with for the purpose of motion hearing. Allowed.

Service on respondents No.2 to 6 is dispensed with.

Arguments heard.

Present revision petition has been filed against an order passed by the learned Civil Judge (Junior Division), Jalandhar, vide which evidence of the petitioner in rebuttal has been ordered to be closed.

It is not in dispute that vide order dated 25.7.2006, the petitioner was allowed to examine Kewal Krishan in rebuttal. In pursuance

to the order dated 25.7.2006 the petitioner took steps to summon Kewal Krishan. However, he refused to accept the service. Instead of proceeding with the matter in accordance with law to get his presence in the court, the learned Trial Court rejected the application by holding that as the petitioner was to bring the witness on his own responsibility, therefore, he has already availed the opportunity granted to him for leading evidence and consequently, closed the evidence.

The impugned order cannot be sustained as in the present case Kewal Krishan was duly served, however, he refused to appear. In that situation, the lower court should have taken coercive steps to secure his presence.

In view of this, the present revision is allowed. The impugned order is set aside and the petitioner is granted one last opportunity to summon and examine Kewal Krishan in rebuttal evidence.

It is made clear that the court will grant necessary assistance in securing his presence.

(Vinod K.Sharma)
Judge

30.11.2006
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